

REMARKS/ARGUMENTS

Summary of amendments

Claims 1-3, 5 and 7-28 are pending.

Claims 1-3, 5 and 7-28 are rejected.

The amendments to the claims in response to the rejections in the February 3, 2010 office action are summarized as follows:

Claims 19-20 and 25-26 are canceled.

Claim 1 is amended to recite, in part, “a detachable grooved ring positioned in the cup-shaped receptacle, the detachable grooved ring sized to be press fitted into the opening of the top, the detachable grooved ring having an outer wall and an inner wall, the outer wall being adjacent to the sidewall of the cup-shaped receptacle having a top edge at a first distance above the closed bottom, the inner wall having a top edge being at a second distance above the closed bottom, the second distance being less than the first distance;..”

The addition of the phrase “having a top edge” clarifies the height relationship of the inner and outer walls of the grooved ring with respect to the bottom of the receptacle. Support is found in Figures 1, 4-6. Paragraph 24 discloses the outer wall 28 of the ring has a lip 30 with a top edge 31 for fitting over the top rim 8 of the receptacle 22. Figure 6 shows the lip 30 (having a top edge 31). Referring to Figures 1, 4 and 5 it is evident that the lip 30 is congruent to top 8 when the grooved ring is press-fit. Similar amendments are made in claims 8, 10 and 28. No new matter is added.

Drawing Objections

The drawings are objected to under 37 CFR 1.83(a) for not showing every feature specified in the claims. Correction is required, but only if possible without introduction of new matter.

Figure 6 is amended to provide a numeral label for an inner wall 36 of the grooved ring 20 that is contained in the original drawing.

The features now labeled with numerals are clearly recognized as being shown in Figures 2 and 6. No new matter is added, as these features appear in the original drawings as filed, and are therefore part of the original specification.

Specification Objections

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, The Office Action states (section 6) “There is no apparent disclosure, nor is it clear what is meant by ‘the grooved ring having an outer wall and an inner wall (that must clearly be seen in the drawings), the outer wall being adjacent to the sidewall of the receptacle at a first distance above the closed bottom, the inner wall being at a second distance above the closed bottom, the second distance being less than the first distance.’ ” Correction is required, but only if possible without introduction of new matter.

The specification has been amended in paragraph [0024]- [0025] to describe newly numbered features shown in Figure 6. No new matter is added, as these features appear in the original drawings as filed, and are therefore part of the original specification.

Claim Rejections

Claims 1-3, 5 and 7-28 are rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement, in that the original disclosure fails to provide support for the claim limitations

The Office Action states that the features recited in the quoted limitation have never been defined in the specification, nor is such a relationship ever demonstrated in the drawings.

Applicants traverse.

The original drawings are a part of the original application, and therefore a part of the original specification. Features appearing in the original drawings but not labeled, or specifically described in the detailed description are still elements of the specification.

MPEP 2163 Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112, para. 1, “Written Description” Requirement states:

“Possession may be shown in many ways. For example, possession may be shown by describing an actual reduction to practice of the claimed invention. **Possession may also be shown by a clear depiction of the invention in detailed drawings** or in structural chemical formulas which permit a person skilled in the art to clearly recognize that applicant had possession of the claimed invention. An adequate written description of the invention may be shown by any description of

sufficient, relevant, identifying characteristics so long as a person skilled in the art would recognize that the inventor had possession of the claimed invention.”

Furthermore, as stated in the attached declaration by co-inventor Sharon Lesk, the recited features in question were intentional and in the inventors’ possession at the time of filing, as evidenced by the Exhibits showing photographs of the flower container as conceived and fabricated prior to filing the application as well as the brochure which describes the purpose of the ring as retaining water in the flower container. The Examiner’s attention is also directed to paragraphs [0015] and [0024] of the specification which described the claimed features.

The drawings as amended depict and identify the features of concern, with relational properties. The specification is amended to describe the features of concern as they appeared in the original specification, but with numerals and the relational properties added. Applicants submit no new matter is added, as the drawings are a part of the original application, and the features are contained in the original drawings, and therefore are a part of the original specification. Applicants submit that claims 1-3, 5 and 7-28 are patentable under 35 U.S.C. 112, first paragraph.

Claims 1-2, 5, 7-15, 18 and 22-24 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hinrichs in view of Sakamoto. Claim 28 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Hinrichs.

Independent claims 1, 8, 10 and 28, as amended, recite a grooved ring sized to be press fitted into the opening of the top of the receptacle, where the inner and outer walls of the grooved ring have top edges of different height with respect to the bottom of the receptacle. Hinrichs clearly discloses, Figures 1 and 2, inner and outer walls B1 and B2, of reservoir C, where the top edges of B1 and B2 have identical height with respect to the bottom of the receptacle. Hinrichs teaches use of the reservoir C to introduce water to the soil containing a potted plant through the porous material of which the reservoir C is made. Thus, there would be no motivation to require the top edges of B1 and B2 to have different heights for the purpose of introducing water to the potting soil. Furthermore, the Office Action, in Paragraph 11, defines the distance relationship as being between the bottom of B1 and B2 and the bottom of the pot. A close examination of Figures 1 and 2 of Hinrichs shows that the distance from the bottom of B1 to the bottom of the flower pot directly below is *identical* to the distance from the bottom of B2 to the bottom of the

flower pot directly below, in direct contradiction of the statement in the Office Action. Applicants, to the contrary, define the height relationship as being between the top edges of the inner/outer wall and the receptacle bottom.

Hinrichs therefore fails to disclose a grooved ring as recited in claims 1, 8, 10 and 28. Sakamoto adds nothing to Hinrichs in this regard, as there is no disclosure in Sakamoto of a grooved ring, but rather introduces the concept of prongs. The subsequent introduction of Ho (without stating its 37 CFR 103 (a) relevance) adds nothing to either Hinrichs or Sakamoto, but deals instead with a wall mountable container, wherein a lid as disclosed by Ho, is not a grooved ring as claimed by Applicants in claims 1, 8, 10 and 28. Therefore, independent claims 1, 8, 10 and 28 are patentable both separately and over the combination of Hinrichs and Sakamoto, and the combination of Hinrichs, Sakamoto and Ho.

Claims 2, 5, 7 and 12-21 depend from claim 1, and claims 9, and 22-27 depends from claim 8, and are therefore patentable over the cited combination of references for at least the same reasons as given for claims 1, 8, and 10.

Claims 1, 3, and 10-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hinrichs in view of Stone. Stone discloses a plant stem support means (frog). However, Stone adds nothing to Hinrichs with respect to the grooved ring of claim 1. Claims 3 and 12-17 depend from claim 1, and are therefore patentable over the cited references for at least the same reasons as given for claim 1.

Claims 21 and 27 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the art employed against claims 1 and 9 (i.e., Hinrichs and Sakamoto) and further in view of Holtkamp. Claim 21 depends from claim 1, and claim 27 depends from claim 8. Holtkamp discloses a watering system including a fragrance cartridge 12 with a detachable U-shaped casing 30 having a groove to contain air freshener 32. However, because of different orientation (where the U opens horizontally, not vertically), Holtkamp has no outer wall that may be construed as adjacent to any sidewall of a (cup-shaped) receptacle. Furthermore, Holtkamp's casing 30 is disclosed as formed to be positioned loosely around a reduced diameter neck 24, and is not press fitted to the neck 24, or to a skirt 42. There is no teaching or motivation in the combined references that would suggest changing the design of Holtkamp's cartridge 12 and combining it with Hinrichs

and Sakamoto in order to make claims 1 and 8 obvious. Therefore, claims 21 and 27 are patentable over the cited references.

New claim 29 recites, in part, a ring sized to be press fitted into the opening of the top, the ring having a groove between an outer wall and an inner wall, the outer wall being adjacent to the sidewall of the receptacle, the inner wall having a top edge, the top edge of the inner wall being below the top of the sidewall relative to the closed bottom. Support is found in the specification at least in paragraph [0024], which discloses “In particular embodiments, the ring is designed to press-fit into the receptacle, with the contacting surface of the ring matching the converging sides of the receptacle 22.” Paragraph [0025] discloses “Although an annular ring is shown, the ring can be any shape that fits into the receptacle,” which provides support for a groove ring to be press-fit into the opening of the top” with “top edge of the inner wall [of the grooved ring] being below the top of the sidewall [of the receptacle] relative to the closed bottom [of the receptacle].” No new matter is added.

CONCLUSION

Payment of fees for the extension of time is made by electronic credit card transaction. No other fees are believed due with this submission. However, if the Commissioner determines that additional fees or credits are due, the Commissioner is authorized to charge fees due or issue credits to Deposit Account 50-0337. Please ensure that Attorney Docket No. 7288-102/10312532 is referred to for this case.

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Respectfully submitted,

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Enclosures: Replacement Sheet 3/3
Declaration under 37 C.F.R. §1.132